

REMARKS

Reconsideration of the above-identified application in view of the foregoing amendments and the following remarks is respectfully requested.

A. Status of Claims and Explanation of Amendments

Claims 1-3, 5, 7-11, 13, 15-17 are pending. Claims 9 and 17 are amended.

Pursuant to this Supplemental Amendment, Claim 9 is amended to change the phrase “file-stored” to “file stored”. Pursuant to this Supplemental Amendment, claim 17 is amended to delete the phrase, “comprising a transmission medium, a recording medium”. These amendments are not made for any substantive reason related to patentability (i.e., §§ 102, 103).

Claims 17 is also amended to change the phrase “A computer-readable medium” to the phrase “A recording medium.” This amendment is addressed in more detail below. No new matter will be added to this application by entry of this amendment. Entry is requested.

B. Rejection Under 35 U.S.C. § 112

Claims 1-3, 5, 7-8 and 17 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants’ respectfully traverse the rejection.

The specification, as originally filed, states that “alteration processing performed in the image sensing apparatus 10B will be described with reference to FIG. 9”, (Specification, p. 20), and an “image sensing apparatus 10B is realized with a digital camera, a digital video camera, a cellular phone with camera”, (Specification, p. 6). Additionally, support for an “alteration unit” as recited in claims 1 and 5 is found throughout the application as originally filed, including, for example on pages 12-13 and 22. Accordingly, it is clear that one skilled in the art will understand what term “alteration unit” refers to, and thus, the metes and bounds of

claims 1-8 can be determined. For at least similar reasons, the term “control unit” will equally be understood by those skilled in the art. Additionally, support for a “control unit” as recited in claim 1 is found throughout the application as originally filed including for example on pages 14 and 23. Accordingly, the rejection of claims 1-3, 5, 7-8 under § 112 is respectfully requested to be withdrawn.

The specification, as originally filed, also states, “the present invention can be also achieved by providing software program code . . . to a computer of an apparatus or a system connected with respective devices” (Specification, p. 44). It also states, “means for supplying the program code to the computer, for example, a recording medium holding the program code” (Specification, p. 45). These two teachings, along with additional teachings on page 45 and elsewhere throughout the application, suggest that one skilled in the art will understand the term “computer-readable medium” to be encompassed by the Specification, and thus the metes and bounds of claims 17 can be determined. Nevertheless, in an effort to expedite prosecution, by this paper, claim 17 is amended to recite, *inter alia*, a “recording medium”. Accordingly, the rejection of claim 17 under § 112 is respectfully requested to be withdrawn.

C. Rejection under 35 U.S.C. § 101

Independent claim 1 and dependent claims 2, 3, 5, 7-8 were rejected under 35 U.S.C. § 101 for allegedly claiming non-statutory subject matter. Applicants’ respectfully traverse the rejection. As discussed above, based on the specification, one skilled in the art will understand what the term “alteration unit” and “control unit” to mean, and one skilled in the art will also understand that the broadest reasonable interpretation does not encompass software *per se*. Accordingly, the rejection of claims 1-3, 5, 7-8 under § 101 is respectfully requested to be withdrawn.

Claim 17 was also rejected under § 101 for allegedly claiming software *per se*.

Applicants' respectfully traverse the rejection. As discussed above, based on the specification, one skilled in the art will understand what the term "computer readable medium" to mean, and one skilled in the art will also understand that the broadest reasonable interpretation does not encompass software *per se*. Nevertheless, in an effort to expedite prosecution, by this paper, claim 17 is amended to recite, *inter alia*, a "recording medium". Accordingly, the rejection of claim 17 under § 101 is respectfully requested to be withdrawn.

D. Rejection Under 35 U.S.C. § 102

Claims 1, 5, 9, 13 and 17 were rejected under 35 U.S.C. § 102 as allegedly anticipated by U.S. Patent No. 6,434,538 to Ibaraki ("Ibaraki"). Applicants respectfully traverse the rejection.

Specifically, claim 1 recites:

"1. An image processing apparatus comprising:

an alteration unit that alters a first image file stored in a removable storage medium in order to generate a second image file; and

a control unit that controls to store the second image file in the storage medium without deleting the first image file from the storage medium, if the first image file includes authentication data that is used to authenticate whether the first image file has been altered."

Ibaraki is directed to a data control method for embedding and detecting data control information. Ibaraki discloses that, according to one embodiment of a method for detecting data control information, a digital signature is determined whether or not to be authentic. Copying is permitted "[i]n the case where the digital signature . . . in the data is authenticated" and copying is not permitted "[i]n the case where the digital signature . . . in the data is not authenticated . . ." (Ibaraki at 3:24-33). Accordingly, Ibaraki only teaches that

copying is or is not permitted depending on whether the digital signature is authenticated.

Ibaraki does not teach that data is copied when the digital signature is authenticated. Moreover, Ibaraki does not teach that, in the case the digital signature is authenticated, the data is copied, altered and stored without deleting the original, authenticated data. Indeed, Ibaraki does not even solve the same problem addressed by Applicants' amended claim 1 because, in the case that the digital signature is authenticated, the data is not copied. Therefore, Ibaraki does not disclose, teach or suggest, "a control unit that controls to store the second image file in the storage medium without deleting the first image file from the storage medium, if the first image file includes authentication data that is used to authenticate whether the first image file has been altered," as recited in Applicants' claim 1.

Therefore, Ibaraki does not teach each element of Applicants' claim 1, and claim 1 is therefore believed to be in condition for allowance.

The analysis of claim 1 is equally applicable to independent claims 9 and 17, and thus, for at least similar reasons discussed above, claims 9 and 17 are believed to be in condition for allowance.

E. Rejection under 35 U.S.C. § 103

Claims 2, 3, 7, 10, 11 and 15 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Ibaraki. Claims 8 and 16 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Ibaraki in view of U.S. Patent No. 6,968,058 to Kondoh. Applicants' respectfully traverse the rejection. In an effort to expedite prosecution, however, Applicants' assert that for at least similar reasons as discussed above with respect to claims 1 and 9, respectfully, claims 2, 3, 7, 8, 10, 11, 15 and 16 are also in condition for allowance.

* * *

Applicants have chosen in the interest of expediting prosecution of this patent application to distinguish the cited documents from the pending claims as set forth above. These statements should not be regarded in any way as admissions that the cited documents are, in fact, prior art. Likewise, Applicants have chosen not to swear behind the cited references or to otherwise submit evidence to traverse the rejection at this time. Applicants, however, reserve the right, as provided by 37 C.F.R. §§ 1.131 and 1.132, to do so in the future as appropriate. Finally, Applicants have not specifically addressed the rejections of the dependent claims. Applicants respectfully submit that the independent claims, from which they depend, are in condition for allowance as set forth above. Accordingly, the dependent claims also are in condition for allowance. Applicants, however, reserve the right to address such rejections of the dependent claims in the future as appropriate.

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CONCLUSION

Applicants respectfully request reconsideration and withdrawal of the rejection of Claims and allowance of this application.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this response to Deposit Account No. 13-4500, Order No. 1232-5393. In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No 504827, Order No. 1232-5393. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,
LOCKE LORD BISSELL & LIDDELL, L.L.P.

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By:



Zachary Silbersher
Registration No. 62,090

Correspondence Address:

LOCKE LORD BISSELL & LIDDELL, L.L.P.
3 World Financial Center
New York, NY 10281-2101
Tel: (212) 415-8600